

United States Department of Agriculture

Office of Ethics

Ethics Issuance

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▪ **U.S. DEPARTMENT OF AGRICULTURE - OFFICE OF ETHICS**

ETHICS ISSUANCE: Number 03-3 - DATE: November 7, 2003

SUBJECT: COMBINED FEDERAL CAMPAIGN ACTIVITIES

1. Purpose

This Ethics Issuance establishes guidelines for applying the criminal conflict of interest statutes (18 U.S.C. §§ 202-208) and Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635) to employees who participate in activities related to the Combined Federal Campaign (CFC).

2. Authority

Titles II and IV of the Ethics in Government Act of 1978, as amended, Pub. L. No. 95-521, direct Executive branch departments and Federal agencies to administer an effective ethics program that must include training, counseling, financial disclosure reporting, and other related responsibilities. The program requirements for the ethics programs of executive departments or executive agencies are set out in 5 C.F.R. Part 2638.

3. Definitions

Combined Federal Campaign (CFC): [as defined at 5 C.F.R. § 950.101] The charitable fundraising program established and administered by the Director of the Office of Personnel Management (OPM) pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of that program.

CFC Coordinator: An employee appointed by a Federal agency, or agency component, to lead the CFC effort at that agency or component. The CFC Coordinator recruits a Campaign Committee, including Key workers, to help implement campaign plans.

Gambling: A game of chance that involves the furnishing of consideration, either through a participation fee or wagering (risking loss) of money or something of value in return for the possibility of winning a reward or prize. To be considered gambling, a game must have all three elements. As used in 5 CFR § 735.201, gambling includes the operation of a gambling device, conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket.

Local Federal Coordinating Committee (LFCC): The group of Federal officials designated by the Director, OPM to conduct the CFC in a particular community.

Principal Combined Fund Organization (PCFO): The federated group or combination of groups, or a charitable organization selected by the LFCC to administer a local campaign under the direction and control of the LFCC and the Director, OPM.

Solicitation [CFC definition]: Any action requesting money, either by cash, check, or payroll deduction, on behalf of charitable organizations. *For fundraising and gift purposes other than CFC, reference should be made to applicable provisions of 5 CFR part 2635.*

4. General

The CFC is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations [5 C.F.R. § 950.102(a)]. Federal agencies traditionally take a very active role in encouraging employee participation in the CFC. The challenge to meet participation goals often results in creative methods used by agencies to involve not only employees, but non-Federal entities, as well. At the same time, employee participation cannot be coerced, and efforts to involve non-Federal organizations must not violate other existing ethical rules. This issuance, which is aimed at CFC Coordinators, will apply existing rules of Government-wide and Department applicability to some of the common methods employed by agencies to run a successful CFC Campaign.

5. Controlling Statutes and Regulations.

18 U.S.C. § 205 - Activities of officers and employees in claims against and other matters affecting the Government.

18 U.S.C. § 208 - Acts affecting a personal financial interest.

5 C.F.R. § 735.201 - Gambling.

5 C.F.R. part 950 - Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations.

- **5 C.F.R. Part 2635** - Standards of Ethical Conduct for Employees of the Executive Branch, specifically:
- Subpart E - Impartiality in Performing Official Duties; and
- Subpart G - Misuse of Position.

6. Voluntary Participation.

6.1. General Rule. Take no action that removes, or could appear to remove, an employee's free choice to participate or not to participate as he or she chooses. This includes the decision as to whether or not to give through the CFC, whether to make gifts confidential, or how much to give.

6.2. Permissible Encouragement. You may participate in and inform others of the opportunity to participate in special CFC non-solicitation events such as "kick-off" events, victory celebrations, and *non-monetary* award activities. This includes allowing

special CFC events permitted by CFC regulations, where approved by an agency head or other appropriate agency official, consistent with agency ethics requirements.

6.3. Impermissible Actions. The following are specifically prohibited:

- Solicitation of subordinates by supervisors;
Note: This does not prohibit agency officials from allowing “kick-off” activities or demonstrating support for CFC, and it does not prohibit individual supervisors from encouraging participation, such as through a broadly distributed memorandum.
- Supervisory inquiries of employee personal participation in CFC.
Note: This does not preclude a supervisor from knowing summary information about their organization’s participation;
- Publicizing an employee’s particular donation election, or choice not to participate in CFC, if the employee seeks confidentiality;
- Developing and using lists of non-contributors;
- Providing and using contributor lists for purposes other than routine collection and forwarding of contributions;
- Use of the incentive, *or other monetary* awards program to reward donations or participation; or
- Establishment of 100% goals or personal dollar goals or quotas.

7. Use/Misuse of Appropriated Funds.

7.1. Permissible Uses. Since CFC is an official program, limited use of resources is appropriate. This normally includes expenditures related to “kick-offs,” victory celebrations, non-monetary awards, official time for campaign activities, and other events to build support for CFC.

7.2. Impermissible Uses. Use of appropriated funds to pay for refreshments, personal gifts, or other items not essential to support CFC is prohibited. Also, the use of appropriated funds to buy incentive trinkets for CFC key workers and coordinators is discouraged. Before appropriated funds are used for the purpose of purchasing incentive trinkets, guidance should be sought from the Office of the General Counsel. However, other incentives, such as privileges (e.g., a reserved parking space for a limited period of time) are permissible.

8. Conflicts of Interest, Impartiality, and Favoritism

8.1. Service on Local Federal Coordinating Committees. If you serve on an LFCC, on the eligibility committee, or as agency fundraising program coordinator, you may not serve on the board of directors of any organization that serves the LFCC as its PCFO -- the local non-Federal organization that runs the CFC on behalf of designated charities. This could constitute a violation of 18 U.S.C. § 208.

8.2. Service on Boards of Charitable Organizations. If you serve on the board of any other charitable organization, or have an affiliation with such an organization, you may not participate in any official decisions that may appear to have a direct and predictable interest on that organization. Accordingly, you should avoid applying for inclusion on the local list on behalf of the organization, as this could constitute a violation of 18

U.S.C. § 205. You also should avoid participating in the eligibility determinations, as this could constitute a violation of 18 U.S.C. § 208.

- **8.3. Actions Favoring Specific Charities.** You may not:
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- Endorse or encourage employees to donate to a specific charity or federation of charities, whether privately or as part of a CFC “kick-off” event;
- Solicit donations on behalf of a charity or federation of charities with which you have an affiliation; or
- Permit a participant charity or federation of charities with which you are affiliated to make use of your official title, position, or authority, or using such yourself for the benefit of the charity.

Such actions could create an appearance either of a loss of impartiality (5 C.F.R. part 2635, subpart E), or of misusing your official position for the benefit of others (5 C.F.R. part 2635, subpart G).

9. Special Events, Games of Chance and Gambling.

9.1. Permissible CFC Fundraising Events. The following activities generally are permitted during the 6-week CFC campaign period: i.e., bake sales, silent auctions, raffles, lotteries, carnivals, athletic events, and other similar events. However, such events must be consistent with ethics regulations. Accordingly:

- Bake sale or silent auction items must be voluntarily donated by the employee(s); and
- Games of chance must be conducted so as not to constitute gambling.

9.2. Impermissible Events. Pursuant to 5 C.F.R. § 735.201, employees generally are prohibited, while on Government-owned or leased property, or while on official duty, from conducting or participating in gambling activities. In planning opportunities of chance (raffles, lotteries, door-prizes, etc.), you must avoid gambling. Avoid planning events that involve the following three elements:

- The donor wagering something of value (consideration);
- In order to participate in an event involving chance; and
- Which offers a reward or prize.

The first element is usually the one on which problems hinge. If entry into an event is based simply on attendance at a CFC event, or by merely drawing a CFC pledge card, then the game is permitted. There is nothing of value paid by the participant. For example, door-decorating competitions, quizzes, guessing games with no requirement of donation as a condition of entry are fine. If there is any requirement for a contribution, an entry fee, or expectation of a contribution, it is not permitted.

Note: A container for donations may be prominently displayed in proximity to the location of the event as long as it is clearly communicated that donations are voluntary.

10. Improper Solicitations.

10.1. Soliciting Non-Federal Personnel. Contractor personnel, Credit Union employees, other non-Federal personnel employed on Federal premises, and Federal retirees may be offered the opportunity to make single contributions to the CFC if they so choose. However, under 5 CFR § 950.103(g), they may not be solicited to make contributions of cash, whether directly or indirectly.

10.2. Soliciting Outside Sources for Contributions. The CFC regulation simply permits solicitation of charitable donations from Federal employees in the Federal workplace. It does not authorize Federal agencies participating in CFC to solicit gifts to the agency from outside parties. Moreover, agency gift acceptance authorities should not be used to accomplish for CFC what cannot be accomplished under the CFC rules.

Note: To the extent that such solicitation may be done, it is done on behalf of the CFC by the PCFOs.